

Message Text

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TO AMEMBASSY SEOUL PRIORITY

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E.O. 11652: N/A

TAGS: EWWT, EFIN, KS, US

SUBJECT: SEALAND AND ROK DEFENSE TAX

1. SEALAND INFORMED DEPARTMENT ROK MINISTRY OF FINANCE HAS GIVEN OPINION THAT THE U.S. LINE'S NON-TAXABLE INCOME UNDER KOREAN CORPORATE TAX LAW IS SUBJECT TO ROK DEFENSE TAX SINCE MOF INTERPRETS THAT DEFENSE TAX IS LEVIED AGAINST NET PROFIT, INCLUDING NONTAXABLE INCOME. DEFENSE TAX IS PAYABLE FEB 29. SEALAND STATES IT HAS NOT BEEN SUBJECT TO KOREAN CORPORATE TAX AND RETURNS FILED BY LINE SINCE 1971 HAVE CLAIMED EXEMPTION THEREFROM ON BASIS OF 1957 FCN TREATY WITHOUT CITING ANY SPECIFIC ARTICLE THEREIN AND ROK INTERNAL TAX LAW PROVIDING FOR NONTAXATION ON BASIS OF RECIPROCAL TREATMENT. NONTAXATION OF U.S. LINES BY ROK TO DATE PERMITS RECIPROCAL TREATMENT OF KOREAN VESSELS BY U.S. UNDER SECTION 883 OF THE INTERNAL REVENUE CODE.

2. SEALAND REP RAISED QUESTION OF DEFENSE TAX IN LIGHT OF EQUAL TAX TREATMENT PROVISIONS, PARAS 1 AND 3 OF ARTICLE
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XI, OF FCN WITH MOF, BELIEVING KOREAN STEAMSHIP LINES ARE

NOT SUBJECT TO CORPORATE OR DEFENSE TAX. REPORTED RESPONSE WAS THAT DEFENSE TAX APPLIES EQUALLY TO KOREAN AND FOREIGN BUSINESS ENTITIES UNLESS LATTER BENEFIT FROM EXEMPTION PROVIDED UNDER FOREIGN CAPITAL INDUCEMENT LAW OR A TREATY (DOUBLE TAXATION?).

3. DEPARTMENT'S UNDERSTANDING RE APPLICABILITY OF DEFENSE TAX, BASED ON PREVIOUS EMBASSY REPORTS, CORRESPONDS WITH THE FOREGOING. QUESTION HAS ARISEN HETHER KOREAN SHIPPING LINES ARE EXEMPT FROM CORPORATE TAX AND ILL NOT BE SUBJECT TO DEFENSE TAX LEVY. IN LIGHT OF FEB 29 DEADLINE, DEPARTMENT WOULD APPRECIATE EMBASSY CLARIFICATION OF THIS POINT AS SOON AS POSSIBLE. INGERSOLL

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